

Message Text

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INFO OCT-01 ISO-00 SSO-00 /026 W
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FM USMISSION USUN NY

TO SECSTATE WASHDC IMMEDIATE 8680

INFO AMEMBASSY OTTAWA

S E C R E T USUN 3254

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EXDIS

FROM: LOS DEL

3.O. 11652: XGDS-3

TAGS: PLOS, CA

SUBJ: US/CANADA BILATERALS ON THE ARCTIC (POLLUTION/STRAITS)

16 AUGUST - CANADIAN LOS OFFICES

1. AMB. BEESLEY IN MEETING WITH AMB. LEARSON AND
OTHER MEMBERS OF US DEL OUTLINED CANADIAN POSITION AS
DECIDED BY THE CABINET. THESE VIEWS MAY BE RAISED BY
MINISTER MACEACHEN AT THE SECRETARY'S 16 AUGUST MEETING,
IN REPLY TO THE SECRETARY'S INQUIRES IN NAIROBI. WE
GAVE NO SUBSTANTIVE REPLY. THERE WERE THREE ELEMENTS
IN BEESLEY'S PRESENTATION OF THE CABINET DECISION WHICH
HE READ WITH CARE TO US:

1) THEY AGREE TO THE ARCTIC VULNERABLE AREAS
AND STRAITS PACKAGE;

2) A DECISION HAS BEEN TAKEN IN PRINCIPLE TO
DRAW STRAIGHT BASELINES AROUND THE PERIMETER OF THEIR
ARCTIC ISLANDS, PROBABLY NOT TO BE IMPLEMENTED UNTIL
AFTER THE CONFERENCE. THE WATERS INSIDE THE BASE-
LINES WOULD BE CHARACTERIZED AS INTERNAL. WE ARE NOT
REP NOT BEING ASKED TO AGREE.

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3) ARRANGEMENTS CONCERNING HEAD HARBOR PASSAGE AND THE STRAIT OF JUAN DE FUCA SHOULD BE SETTLED BETWEEN US, NOT MERELY BY APPLYING THE REGIME IN THE PRESENT NEGOTIATING TEXT. THE PROBLEMS IN PART RELATE TO THE RULE OF NON-SUSPENSION OF INNOCENT PASSAGE IN STRAITS CONNECTING THE HIGH SEAS TO THE TERRITORIAL SEA.

2. ON POINT 2, THEY ASSUME THAT THE LOS TREATY WILL NOT SPECIFICALLY PRECLUDE SUCH ACTION. THEY WILL NOT PRESS OR SEEK, PRIVATELY OR PUBLICLY, RECOGNITION OF THE ARCHIPELAGO CONCEPT TO BE APPLICABLE TO ISLAND GROUPS BELONGING TO CONTINENTAL STATES. THEY ARE PRIMARILY MOTIVATED BY SECURITY CONCERNS. THIS FUTURE DELIMITATION IS NOT INTENDED TO RESTRICT ACCESS OF US MILITARY VESSELS IN PURSUANCE OF MUTUAL DEFENSE INTERESTS. CANADA IS PREPARED TO HAVE A HIGHLY CLASSIFIED BILATERAL AGREEMENT WITH US IN THIS REGARD SIMULTANEOUS WITH ITS DRAWING OF BASELINES. FOREIGN COMMERCIAL VESSELS MAY ENTER THE AREA IN ACCORDANCE WITH CANADIAN DOMESTIC LAW. THIS ACTION PROBABLY WILL NOT BE TAKEN DURING THE LOS CONFERENCE.

3. STRAITS. IN THE CANADIAN VIEW, THE STRAITS ARTICLES WILL REMAIN AS DRAFTED AND THEY WILL WORK OUT WITH THE US THE METHOD OF SUPPORTING OUR STRAITS POSITION. WITH RESPECT TO THE NORTHWEST PASSAGE, EACH SIDE WOULD RETAIN ITS POSITION ON WHETHER IT IS A STRAIT USED FOR INTERNATIONAL NAVIGATION, BUT WOULD (A) AVOID MAKING AN ISSUE OF ITS UNLESS FORCED TO DO SO BY THE OTHER, AND (B) AVOID PLACING THE OTHER IN A POSITION WHERE IT MUST TAKE A STAND. BEESLEY AGREED THAT THE DRAWING OF BASELINES IN ITSELF DOES NOT ALTER THE QUESTION OF THE APPLICABILITY OF THE STRAITS REGIME; THE LEGAL ISSUES REMAIN WHETHER THE WATERS WERE PREVIOUSLY CONSIDERED AS INTERNAL (HISTORIC) AND WHETHER THE STRAITS ARE USED FOR INTERNATIONAL NAVIGATION. THE CANADIANS VIEW THE WATERS AS ALREADY BEING HISTORICALLY INTERNAL AND THAT THE NW PASSAGE IS NOT A STRAIT USED FOR INTERNATIONAL NAVIGATION;

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WE DISAGREE.

4. ARCTIC ISLAND BASELINES. AMB. BEESELY INDICATED THREE MOTIVATING FACTORS. THE FIRST RELATED TO DOMESTIC CLAIMS OF THE NATIVE PEOPLES WHICH ARE SAID TO EMBRACE BOTH WATER AND LAND AREAS, WITH ICE CONDITIONS BLURRING THE DISTINCTION. SECOND, MILITARILY, THE CANADIANS BELIEVE THEY ARE IN A

STRONGER POSITION IF THE WATERS WITHIN THE ISLANDS ARE INTERNAL. THE THIRD FACTOR RELATED TO FISHING, I.E., WITHOUT BASELINES IT WOULD BE MORE DIFFICULT TO EXTEND THEIR FISHERIES JURISDICTION ZONES IN THE NORTH. THE CANADIANS WILL APPROACH THIS PROBLEM AS ONE OF IMPLEMENTING A PRE-EXISTING CLAIM. BEESLEY ALSO INDICATED THAT HE WOULD DO HIS BEST TO INSURE THAT THIS ACTION IS NOT TAKEN TOO SOON AFTER THE CONFERENCE COMPLETES ITS WORK.

5. IN ADDITION TO THE POSSIBILITY OF A BILATERAL MILITARY AGREEMENT, BEESLEY REFERRED TO THE DESIRABILITY OF REDUCING THE ARCTIC/STRAITS PACKAGE UNDERSTANDING TO WRITING.

TALKING POINTS FOR THE MEETING BETWEEN THE SECRETARY AND MINISTER MAC EAGEN:

1. WE UNDERSTAND THAT CANADA IS PREPARED TO ACCEPT THE SO-CALLED "ARCTIC/STRAITS" PACKAGE, AND WILL PUBLICLY SUPPORT THE STRAITS ARTICLES AS DRAFTED, BUT THAT CANADA PLANS TO DRAW STRAIGHT BASELINES AROUND THE CANADIAN ARCTIC ISLANDS.

2. I CAN SAY NOW THAT WE CAN BOTH AGREE TO OUR PUBLIC SUPPORT FOR THE ARCTIC EXCEPTION AND YOUR PUBLIC SUPPORT FOR THE STRAITS ARTICLES, AS DRAFTED.

3. AS I HAVE SAID BEFORE, ON THE QUESTION OF STRAITS CONNECING THE HIGH SEAS TO THE TERRITORIAL SEA, WE MUST BOTH BE SENSITIVE TO THE IMPACT ON THE MIDDLE EAST SITUATION. WE ARE NOT SEEKING TO RESOLVE BILATERAL U-CANADA PROBLEMS ON HEAD HARBOR
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PASSAGE OR JUAN DE FUCA STRAITS IN THE LOS CONFERENCE.

4. WE WILL HAVE TO STUDY THE QUESTION OF BASELINES, I UNDERSTAND YOU ARE NOT ASKING US TO AGREE AND IN ANY EVENT, PLAN NO ACTION UNTIL AFTER THE CONFERENCE. HOWEVER, WE ARE UNCERTAIN AS TO YOUR REASONS FOR CONSIDERING THE DRAWING OF BASELINES NECESSARY. IT MAKES ABSOLUTELY NO DIFFERENCE IN TERMS OF THE UNDERLYING QUESTION OF WHETHER THE NORTHWEST PASSAGE IS COVERED BY THE STRAITS REGIME--ON WHICH WE WILL AGREE TO DISAGREE WITHOUT RAISING THE ISSUE UNLESS IT BECOMES NECESSARY.

5. WE WILL CONSIDER YOUR OFFER OF A SEPARATE AGREEMENT WITH US ON MILITARY VESSEL MOVEMENT IN

THE ARCTIC IN CONNECTION WITH THE ISSUE
OF BASELINES.
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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, POLLUTION, FOREIGN POLICY POSITION, STRAITS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 AUG 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USUNN03254
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: X3
Errors: N/A
Film Number: D760314-0747
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760848/aaaabpws.tel
Line Count: 172
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: SECRET
Original Handling Restrictions: EXDIS, STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: EXDIS, STADIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 15 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 APR 2004 by BoyleJA>; APPROVED <03 AUG 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US/CANADA BILATERALS ON THE ARCTIC (POLLUTION/STRAITS) 16 AUGUST - CANADIAN LOS OFFICES
TAGS: PLOS, CA, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006